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1st August, 2013

..... Petitioner

Through: Mr. Rajkumar Sherawat, Advocate.

versus

..... Respondents

Through: Ms. Mandeep Kaur, Advocate with
Ms. Mansimran Singh, Advocate for
respondent No.1.
Ms. Sonia Arora, Advocate for
respondent No.2.

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. In this writ petition, three reliefs are claimed. First relief is for salary for the months of April and May, 2011. Second relief is for the grant of yearly increments for the year 2011. Third relief is the claim of the petitioner for being treated as a vacation staff as the petitioner is a Librarian

and additionally for grant of an Attendant in the Library.

2. So far as the first two reliefs are concerned, they are not disputed on behalf of respondent No.1-school. Therefore, salary for the months of April and May, 2011 be paid to the petitioner if not already paid and the increment for the year 2011 be also paid to the petitioner if not already paid.

3. That leaves us with the issue of claim of the petitioner for summer vacation as also for an Attendant in the Library. Though, counsel for the petitioner has very strenuously tried to show that petitioner has contended and made the necessary averments of cause of action that the petitioner is entitled to get summer vacation, however, except stating that petitioner is entitled to summer vacation as summer vacation staff and petitioner is entitled to an Attendant it is not stated that under what provisions of the Delhi School Education Act and Rules, 1973, petitioner is entitled to summer vacation or the petitioner is entitled to an Attendant. Even if we assume that certain averments have been made in the writ petition, however, there is nothing to substantiate by means of any document which could be shown to me as to how petitioner is entitled to summer vacations because of any circular or directions of the Director of Education

under the Delhi School Education Act and Rules, 1973. Petitioner is working with the respondent No.1-school which is governed by the Delhi School Education Act and Rules, 1973 and therefore it is only the Director of Education which has the power to issue the appropriate circulars. Circulars filed of CBSE cannot apply as claimed by the petitioner more so, because it is not the contention of the petitioner in the writ petition that the affiliation guidelines of CBSE are being violated by the respondent No.1 and as per the affiliation guidelines petitioner is entitled to summer vacation.

4. Therefore, there is no issue of petitioner being granted summer vacation because neither there is any cause of action in the writ petition nor any documents are filed that the Director of Education has permitted summer vacations to the Librarian of a school. Similar would be the conclusions of this Court even with respect to the Attendant inasmuch as for this purpose, once again only reliance is placed upon by filing alongwith the writ petition certain circulars of CBSE whereas the respondent No.1-school will be guided and bound by the circulars and notifications of the Director of Education.

5. I may note at this stage that the counter-affidavit of the school has been filed with considerable delay today (counter-affidavit has been

handed over to me in the Court) however in the interest of justice I have considered the same after copy of the same has been furnished to the counsel for the petitioner.

6. I may also note that the petitioner's conduct leaves a lot to be desired because whereas the petitioner has made averments in the writ petition that petitioner sent representation to the Director of Education/respondent No.2, however, the Director of Education by means of a counter-affidavit filed way back in April, 2012 has on oath stated that petitioner has never sent any representation to the respondent No.2. No rejoinder affidavit has been filed by the petitioner and obviously this must be because the representation as alleged in the writ petition has not been sent to the respondent No.2.

7. In view of the above, the writ petition is allowed so far as the first two reliefs of salaries for the month of April and May, 2011 and the annual increment are concerned. The writ petition is dismissed so far the prayers for the benefits of vacation as Librarian and for an Attendant to the post of a Librarian are concerned. Parties are left to bear their own costs.

VALMIKI J. MEHTA, J

AUGUST 01, 2013/Ne